

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 39

**Senator Schaffer
Cosponsor: Senator Romanchuk**



A BILL

To amend sections 2901.13, 2903.12, 2921.12, and 1
2921.13 and to enact sections 149.382, 2305.118, 2
and 2307.68 of the Revised Code to eliminate the 3
20-year statute of limitation for felonious 4
assault and aggravated assault if the victim is 5
a peace officer, to modify the law regarding 6
records retention schedules developed by 7
counties, municipal corporations, and townships, 8
to modify the penalties for aggravated assault, 9
tampering with evidence, falsification, and 10
falsification in a theft offense, and to name 11
this act Cooper's Law. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2901.13, 2903.12, 2921.12, and 13
2921.13 be amended and sections 149.382, 2305.118, and 2307.68 14
of the Revised Code be enacted to read as follows: 15

Sec. 149.382. (A) As used in this section, "peace officer" 16
has the same meaning as in section 2935.01 of the Revised Code. 17

(B) Any rules of records retention and disposal provided 18

by a county records commission under section 149.38 of the 19
Revised Code, a records commission created in each municipal 20
corporation under section 149.39 of the Revised Code, or a 21
township records commission under section 149.42 of the Revised 22
Code shall not provide for the disposal of any records related 23
to the death, felonious assault, or aggravated assault of a 24
peace officer when the peace officer, at the time of the 25
commission of the offense, was engaged in the peace officer's 26
duties. 27

Sec. 2305.118. An action for defamation under section 28
2307.67 of the Revised Code shall be commenced within twenty 29
years after the cause of action accrued. 30

Sec. 2307.68. (A) A victim of a violation of division (A) 31
(2) of section 2921.12 of the Revised Code or a family member of 32
a victim when the violation is committed by a public official 33
and the violation impairs the record's, document's, 34
photograph's, or thing's value as evidence, before or after the 35
official proceeding or investigation, has and may commence a 36
civil action for defamation against the offender and may recover 37
in that action full compensatory damages, punitive or exemplary 38
damages, court costs, other reasonable expenses incurred in 39
maintaining that action, and the reasonable attorney's fees 40
incurred in maintaining that action. 41

(B) As used in this section: 42

(1) "Public official" has the same meaning as in section 43
2921.01 of the Revised Code. 44

(2) "Victim" has the same meaning as in section 2930.01 of 45
the Revised Code. 46

Sec. 2901.13. (A) (1) Except as provided in division (A) 47

(2), (3), or (4) of this section or as otherwise provided in 48
this section, a prosecution shall be barred unless it is 49
commenced within the following periods after an offense is 50
committed: 51

(a) For a felony, six years; 52

(b) For a misdemeanor other than a minor misdemeanor, two 53
years; 54

(c) For a minor misdemeanor, six months. 55

(2) There is no period of limitation for the prosecution 56
of a violation of section 2903.01 or 2903.02 of the Revised Code 57
or a violation of section 2903.11 or 2903.12 of the Revised Code 58
if the victim is a peace officer. 59

(3) Except as otherwise provided in divisions (B) to (J) 60
of this section, a prosecution of any of the following offenses 61
shall be barred unless it is commenced within twenty years after 62
the offense is committed: 63

(a) A violation of section 2903.03, 2903.04, 2905.01, 64
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 65
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 66
2911.11, 2911.12, or 2917.02 of the Revised Code, ~~a violation of~~ 67
~~section 2903.11 or 2903.12 of the Revised Code if the victim is~~ 68
~~a peace officer,~~ a violation of section 2903.13 of the Revised 69
Code that is a felony, or a violation of former section 2907.12 70
of the Revised Code; 71

(b) A conspiracy to commit, attempt to commit, or 72
complicity in committing a violation set forth in division ~~(A)~~ 73
~~(3)(a)~~ (A)(2) or (3)(a) of this section. 74

(4) Except as otherwise provided in divisions (D) to (L) 75

of this section, a prosecution of a violation of section 2907.02 76
or 2907.03 of the Revised Code or a conspiracy to commit, 77
attempt to commit, or complicity in committing a violation of 78
either section shall be barred unless it is commenced within 79
twenty-five years after the offense is committed. 80

(B) (1) Except as otherwise provided in division (B) (2) of 81
this section, if the period of limitation provided in division 82
(A) (1) or (3) of this section has expired, prosecution shall be 83
commenced for an offense of which an element is fraud or breach 84
of a fiduciary duty, within one year after discovery of the 85
offense either by an aggrieved person, or by the aggrieved 86
person's legal representative who is not a party to the offense. 87

(2) If the period of limitation provided in division (A) 88
(1) or (3) of this section has expired, prosecution for a 89
violation of section 2913.49 of the Revised Code shall be 90
commenced within five years after discovery of the offense 91
either by an aggrieved person or the aggrieved person's legal 92
representative who is not a party to the offense. 93

(C) (1) If the period of limitation provided in division 94
(A) (1) or (3) of this section has expired, prosecution shall be 95
commenced for the following offenses during the following 96
specified periods of time: 97

(a) For an offense involving misconduct in office by a 98
public servant, at any time while the accused remains a public 99
servant, or within two years thereafter; 100

(b) For an offense by a person who is not a public servant 101
but whose offense is directly related to the misconduct in 102
office of a public servant, at any time while that public 103
servant remains a public servant, or within two years 104

thereafter. 105

(2) As used in this division: 106

(a) An "offense is directly related to the misconduct in 107
office of a public servant" includes, but is not limited to, a 108
violation of section 101.71, 101.91, 121.61 or 2921.13, division 109
(F) or (H) of section 102.03, division (A) of section 2921.02, 110
division (A) or (B) of section 2921.43, or division (F) or (G) 111
of section 3517.13 of the Revised Code, that is directly related 112
to an offense involving misconduct in office of a public 113
servant. 114

(b) "Public servant" has the same meaning as in section 115
2921.01 of the Revised Code. 116

(D) (1) If a DNA record made in connection with the 117
criminal investigation of the commission of a violation of 118
section 2907.02 or 2907.03 of the Revised Code is determined to 119
match another DNA record that is of an identifiable person and 120
if the time of the determination is later than twenty-five years 121
after the offense is committed, prosecution of that person for a 122
violation of the section may be commenced within five years 123
after the determination is complete. 124

(2) If a DNA record made in connection with the criminal 125
investigation of the commission of a violation of section 126
2907.02 or 2907.03 of the Revised Code is determined to match 127
another DNA record that is of an identifiable person and if the 128
time of the determination is within twenty-five years after the 129
offense is committed, prosecution of that person for a violation 130
of the section may be commenced within the longer of twenty-five 131
years after the offense is committed or five years after the 132
determination is complete. 133

(3) As used in this division, "DNA record" has the same	134
meaning as in section 109.573 of the Revised Code.	135
(E) An offense is committed when every element of the	136
offense occurs. In the case of an offense of which an element is	137
a continuing course of conduct, the period of limitation does	138
not begin to run until such course of conduct or the accused's	139
accountability for it terminates, whichever occurs first.	140
(F) A prosecution is commenced on the date an indictment	141
is returned or an information filed, or on the date a lawful	142
arrest without a warrant is made, or on the date a warrant,	143
summons, citation, or other process is issued, whichever occurs	144
first. A prosecution is not commenced by the return of an	145
indictment or the filing of an information unless reasonable	146
diligence is exercised to issue and execute process on the same.	147
A prosecution is not commenced upon issuance of a warrant,	148
summons, citation, or other process, unless reasonable diligence	149
is exercised to execute the same.	150
(G) The period of limitation shall not run during any time	151
when the corpus delicti remains undiscovered.	152
(H) The period of limitation shall not run during any time	153
when the accused purposely avoids prosecution. Proof that the	154
accused departed this state or concealed the accused's identity	155
or whereabouts is prima-facie evidence of the accused's purpose	156
to avoid prosecution.	157
(I) The period of limitation shall not run during any time	158
a prosecution against the accused based on the same conduct is	159
pending in this state, even though the indictment, information,	160
or process that commenced the prosecution is quashed or the	161
proceedings on the indictment, information, or process are set	162

aside or reversed on appeal.	163
(J) The period of limitation for a violation of any	164
provision of Title XXIX of the Revised Code that involves a	165
physical or mental wound, injury, disability, or condition of a	166
nature that reasonably indicates abuse or neglect of a child	167
under eighteen years of age or of a child with a developmental	168
disability or physical impairment under twenty-one years of age	169
shall not begin to run until either of the following occurs:	170
(1) The victim of the offense reaches the age of majority.	171
(2) A public children services agency, or a municipal or	172
county peace officer that is not the parent or guardian of the	173
child, in the county in which the child resides or in which the	174
abuse or neglect is occurring or has occurred has been notified	175
that abuse or neglect is known, suspected, or believed to have	176
occurred.	177
(K) As used in this section, "peace officer" has the same	178
meaning as in section 2935.01 of the Revised Code.	179
(L) The amendments to divisions (A) and (D) of this	180
section apply to a violation of section 2907.02 or 2907.03 of	181
the Revised Code committed on and after July 16, 2015, and apply	182
to a violation of either of those sections committed prior to	183
July 16, 2015, if prosecution for that violation was not barred	184
under this section as it existed on the day prior to July 16,	185
2015.	186
Sec. 2903.12. (A) No person, while under the influence of	187
sudden passion or in a sudden fit of rage, either of which is	188
brought on by serious provocation occasioned by the victim that	189
is reasonably sufficient to incite the person into using deadly	190
force, shall knowingly:	191

(1) Cause serious physical harm to another or to another's unborn;	192 193
(2) Cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code.	194 195 196
(B) Whoever violates this section is guilty of aggravated assault. Except as otherwise provided in this division, aggravated assault is a felony of the fourth degree. If the victim of the offense is a peace officer or an investigator of the bureau of criminal identification and investigation, aggravated assault is a felony of the third <u>second</u> degree. Regardless of whether the offense is a felony of the third <u>second</u> or fourth degree under this division, if the offender also is convicted of or pleads guilty to a specification as described in section 2941.1423 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, except as otherwise provided in this division, the court shall sentence the offender to a mandatory prison term as provided in division (B) (8) of section 2929.14 of the Revised Code. If the victim of the offense is a peace officer or an investigator of the bureau of criminal identification and investigation, and if the victim suffered serious physical harm as a result of the commission of the offense, aggravated assault is a felony of the third <u>second</u> degree, and the court, pursuant to division (F) of section 2929.13 of the Revised Code, shall impose as a mandatory prison term one of the definite prison terms prescribed in division (A) (3)(b) <u>(A)(1)(a)</u> of section 2929.14 of the Revised Code for a felony of the third <u>second</u> degree.	197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220
(C) As used in this section:	221

(1) "Investigator of the bureau of criminal identification and investigation" has the same meaning as in section 2903.11 of the Revised Code.

(2) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

Sec. 2921.12. (A) No person, knowing that an official proceeding or investigation is in progress, ~~or~~ is about to be or likely to be instituted, or the investigation has been completed but evidence is or becomes available, shall do any of the following:

(1) Alter, destroy, conceal, or remove any record, document, photograph, including a crime scene photograph, or thing, with purpose to impair its value or availability as evidence in such proceeding or investigation;

(2) Make, present, or use any record, document, photograph, including a crime scene photograph, or thing, knowing it to be false, altered, edited, cropped, or not in its original form, and with purpose to mislead a public official or a victim or a family member of a victim who is or may be engaged in such proceeding or investigation, or with purpose to corrupt the outcome of any such proceeding or investigation or potential evidence that was not used but is located at a later date or retained for later investigative purposes.

(B) Whoever violates this section is guilty of tampering with evidence, a felony of the ~~third~~-second degree.

(C) As used in this section, "victim" has the same meaning as in section 2930.01 of the Revised Code.

Sec. 2921.13. (A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false

statement previously made, when any of the following applies:	251
(1) The statement is made in any official proceeding.	252
(2) The statement is made with purpose to incriminate another.	253 254
(3) The statement is made with purpose to mislead a public official in performing the public official's official function.	255 256
(4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance, as defined in section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.	257 258 259 260 261 262 263 264
(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.	265 266 267 268
(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.	269 270
(7) The statement is in writing on or in connection with a report or return that is required or authorized by law.	271 272
(8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it	273 274 275 276 277 278

to that person's detriment.	279
(9) The statement is made with purpose to commit or facilitate the commission of a theft offense.	280 281
(10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.	282 283 284 285 286 287
(11) The statement is made on an account, form, record, stamp, label, or other writing that is required by law.	288 289
(12) The statement is made in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.	290 291 292 293 294 295 296
(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.	297 298 299 300
(14) The statement is made in an application filed with a county sheriff pursuant to section 2923.125 of the Revised Code in order to obtain or renew a concealed handgun license or is made in an affidavit submitted to a county sheriff to obtain a concealed handgun license on a temporary emergency basis under section 2923.1213 of the Revised Code.	301 302 303 304 305 306
(15) The statement is required under section 5743.71 of	307

the Revised Code in connection with the person's purchase of 308
cigarettes or tobacco products in a delivery sale. 309

(B) No person, in connection with the purchase of a 310
firearm, as defined in section 2923.11 of the Revised Code, 311
shall knowingly furnish to the seller of the firearm a 312
fictitious or altered driver's or commercial driver's license or 313
permit, a fictitious or altered identification card, or any 314
other document that contains false information about the 315
purchaser's identity. 316

(C) No person, in an attempt to obtain a concealed handgun 317
license under section 2923.125 of the Revised Code, shall 318
knowingly present to a sheriff a fictitious or altered document 319
that purports to be certification of the person's competence in 320
handling a handgun as described in division (B) (3) of that 321
section. 322

(D) It is no defense to a charge under division (A) (6) of 323
this section that the oath or affirmation was administered or 324
taken in an irregular manner. 325

(E) If contradictory statements relating to the same fact 326
are made by the offender within the period of the statute of 327
limitations for falsification, it is not necessary for the 328
prosecution to prove which statement was false but only that one 329
or the other was false. 330

(F) (1) Whoever violates division (A) (1), (2), (3), (4), 331
(5), (6), (7), (8), (10), (11), (13), or (15) of this section is 332
guilty of falsification. Except as otherwise provided in this 333
division, falsification in violation of division (A) (4), (5), 334
(8), (10), (11), (13), or (15) of this section is a misdemeanor 335
of the first degree, and falsification in violation of division 336

(A) (1), (2), (3), (6), or (7) of this section is a felony of the 337
fourth degree. 338

(2) Whoever violates division (A) (9) of this section is 339
guilty of falsification in a theft offense. Except as otherwise 340
provided in this division, falsification in a theft offense is a 341
~~misdemeanor of the first~~ felony of the fifth degree. If the 342
value of the property or services stolen is one thousand dollars 343
or more and is less than seven thousand five hundred dollars, 344
falsification in a theft offense is a felony of the ~~fifth~~ fourth 345
degree. If the value of the property or services stolen is seven 346
thousand five hundred dollars or more and is less than one 347
hundred fifty thousand dollars, falsification in a theft offense 348
is a felony of the ~~fourth~~ third degree. If the value of the 349
property or services stolen is one hundred fifty thousand 350
dollars or more, falsification in a theft offense is a felony of 351
the ~~third~~ second degree. 352

(3) Whoever violates division (A) (12) or (B) of this 353
section is guilty of falsification to purchase a firearm, a 354
felony of the fifth degree. 355

(4) Whoever violates division (A) (14) or (C) of this 356
section is guilty of falsification to obtain a concealed handgun 357
license, a felony of the fourth degree. 358

(5) Whoever violates division (A) of this section in 359
removal proceedings under section 319.26, 321.37, 507.13, or 360
733.78 of the Revised Code is guilty of falsification regarding 361
a removal proceeding, a felony of the third degree. 362

(G) A person who violates this section is liable in a 363
civil action to any person harmed by the violation for injury, 364
death, or loss to person or property incurred as a result of the 365

commission of the offense and for reasonable attorney's fees, 366
court costs, and other expenses incurred as a result of 367
prosecuting the civil action commenced under this division. A 368
civil action under this division is not the exclusive remedy of 369
a person who incurs injury, death, or loss to person or property 370
as a result of a violation of this section. 371

Section 2. That existing sections 2901.13, 2903.12, 372
2921.12, and 2921.13 of the Revised Code are hereby repealed. 373

Section 3. This act shall be known as Cooper's Law. 374